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Guardian ad Litem for CHRISTENE LUQUE,  
a minor

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JEFFERY L. LUQUE, individually and as  
Guardian ad Litem for CHRISTENE  
LUQUE, a minor,

Plaintiffs,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

Civ. No: C 05-2471 JSW

**PLAINTIFFS' REQUEST FOR  
MISCELLANEOUS  
ADMINISTRATIVE RELIEF  
CONTINUING THE  
DEADLINE TO CONDUCT A  
SETTLEMENT  
CONFERENCE; AND  
~~PROPOSED~~ ORDER**

Plaintiffs, JEFFREY L. LUQUE, individually and as Guardian ad Litem for  
CHRISTENE LUQUE, a minor, and hereby request that the deadline to conduct  
the settlement conference be continued to June 7, 2006, or as soon thereafter as  
Magistrate Judge Larson is available.

On October 19, 2005, the Court ordered that the settlement conference be  
conducted by February 24, 2006. On January 19, 2006, Judge Larson issued an  
order setting the settlement conference for February 15, 2006, at 2:00 p.m.

On January 25, 2006, by way of letter from Plaintiffs' counsel, the parties  
requested that the settlement conference be continued to March 24, 2006. On  
January 25, 2006, the parties also filed a Stipulation and [Proposed] Order

Continuing the Deadline to Conduct a Settlement Conference from February 24, 2006 to March 24, 2006.

**GOOD CAUSE EXISTS FOR CONTINUING THE DEADLINE TO  
CONDUCT A SETTLEMENT CONFERENCE**

On March 14, 2006, Plaintiffs' counsel met with Jeffrey L. Luque's treating physician, Joseph Meyers, M.D., to discuss Mr. Luque's foot injury and ongoing complaints. During the conference with Dr. Meyers, he advised that Mr. Luque is suffering from metatarsalgia; Mr. Luque is permanently disabled and unable to return to his pre-accident job as a Teamsters truck driver. Up until this point, it had been hoped that Mr. Luque's condition would improve so that he could return to his former occupation. Mr. Luque, however, now needs to be evaluated by a vocational rehabilitation expert in order for his damages and any mitigated earnings to be properly evaluated. Given the recent development and need for evaluation, Mr. Luque is not in a position to submit to a meaningful settlement conference until after such vocational testing and analysis is performed.

On March 16, 2006, Plaintiffs' counsel, Ms. Fiore, contacted counsel for the Defendant, Jeanne M. Franken, with respect to continuing the settlement conference based upon Dr. Meyers' findings. On March 17, 2006, Ms. Fiore and Ms. Franken spoke about the situation. During the conversation, Ms. Fiore advised that Plaintiffs' counsel is in the process of scheduling the vocational rehabilitation examination. Ms. Fiore further advised that Plaintiff would stipulate to appear for a defense medical examination and a defense vocational rehabilitation examination.

Ms. Franken has advised that the United States is not opposed to a further continuance of the settlement conference date in theory, but has concerns regarding the deadlines in this case in light of the representations of Plaintiffs' counsel regarding Plaintiff's condition, some difficulties which have arisen during discovery, and the fact the government agreed to Plaintiffs' previous request for a

1 continuance of a settlement conference date. Counsel for the United States does  
2 not anticipate filing an opposition to Plaintiffs' application.

3 As a result of the foregoing, on March 17, 2006, Ms. Fiore contacted Judge  
4 Larson's chambers and spoke with Venice Thomas regarding a continuance of the  
5 settlement conference. Ms. Fiore inquired about the process for continuing the  
6 conference as well as a potential date approximately 60 days from the March 24  
7 date. According to Ms. Thomas, Judge Larson's first available date is June 7,  
8 2006 at 2:00 p.m.

9 Based upon Mr. Luque's need for evaluation and allowing the Defendant an  
10 opportunity to have Mr. Luque appear for defense medical and vocational  
11 rehabilitation examinations, there is good cause for continuing the deadline to  
12 conduct a settlement conference until June 7, 2006, or as soon thereafter as Judge  
13 Larson is available. Continuing the deadline to June 7, 2006 should allow all  
14 parties sufficient time to conduct the necessary examinations and evaluation of  
15 Mr. Luque's damages.

16 It is Plaintiffs' position that continuing the deadline to conduct the  
17 settlement conference will not adversely impact any of the pretrial deadlines, such  
18 as the Non-Expert Discovery Cutoff date of May 22, 2006 or the trial date of  
19 October 23, 2006. Plaintiffs, therefore, respectfully request that the deadline to  
20 conduct a settlement conference be continued to June 7, 2006, or as soon  
21 thereafter as Judge Larson is available.

22  
23 Dated: March 17, 2006

BANNING MICKLOW BULL & LOPEZ LLP

24 /s/ Jennifer L. Fiore  
25 KURT MICKLOW  
26 EUGENE A. BRODSKY  
JENNIFER L. FIORE

27 Attorneys for Plaintiffs  
28 JEFFERY L. LUQUE, individually and as  
Guardian ad Litem for CHRISTENE LUQUE,  
a minor

**ORDER**

IT IS SO ORDERED. The parties are to participate in a settlement conference with Magistrate Judge Larson on June 7, 2006, or as soon thereafter as Judge Larson is available. The Court has received and considered Defendant's response to Plaintiff's request. There being no direct opposition to the request, it is GRANTED.

Dated: March 21, 2006

  
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THE HONORABLE JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE